

Application No. 10/808,852
Amendment dated May 4, 2005
Reply to Office Action of November 18, 2004

REMARKS

Applicant amended claim 15 to further define Applicant's claimed invention.

In the Office Action, the Examiner provisionally rejected claims 1-29 under the judicially created doctrine of obvious-type double patenting over claims 126-130, 207-210, 236-241, and 221-235 of Application No. 09/921,852. Applicant respectfully submits that "09/921,852" is a typographical error and that the Examiner intended the rejection to state "09/921,851," which is one of Applicant's co-pending applications. Applicant is submitting concurrently with this reply a Terminal Disclaimer of the present application over Application No. 09/921,851, thus overcoming the Examiner's rejection.

The Examiner rejected claims 15-29 under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,258,129 to Paul et al. ("Paul"). Applicant respectfully traverses the Examiner's rejection. Applicant amended claim 15 to further define Applicant's claimed invention by reciting the structure of the rearward facet relative to the remainder of the implant instead of the previous recitation defining the rearward facet by reference to the slope and angle of the rearward facet. Independent claim 15, as now amended, recites forming a plurality of surface projections, at least two of the surface projections having a forward facet and a rearward facet, "said rearward facet terminating at a first location proximate the base, said rearward facet terminating at a second location proximate said forward facing facet, the first location being closer to the leading end of the implant than the second location."

Paul teaches a plurality of teeth 12 in which "the angle formed from the tip to the base is approximately 60 degrees." (Paul, col. 3, lines 42-44; Figs. 10A, 10B). Paul does not teach or suggest forming a plurality of surface projections as recited in claim 15. Moreover, Applicant notes that Paul does not teach or suggest the relationship between the slope and angle of the rearward facet as previously recited in independent claim 15 prior to the current amendment.

The Examiner rejected claims 25-29 under 35 U.S.C. § 103(a) as being unpatentable over Paul. Applicant submits that the rejections over claims 25-29 are

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rendered moot at least because they depend from an allowable independent claim, or claims dependent therefrom.

Applicant submits that independent claims 1 and 15 are patentable and that dependent claims 2-14 and 16-29 dependent from one of independent claims 1 and 15, or claims dependent therefrom, are patentable at least due to their dependency from an allowable independent claim.

In view of the foregoing remarks, it is respectfully submitted that the claims, as amended, are patentable. Therefore, it is requested that the Examiner reconsider the outstanding rejections in view of the preceding comments. Issuance of a timely Notice of Allowance of the claims is earnestly solicited.

To the extent any extension of time under 37 C.F.R. § 1.136 is required to obtain entry of this reply, such extension is hereby respectfully requested. If there are any fees due under 37 C.F.R. §§ 1.16 or 1.17 which are not enclosed herewith, including any fees required for an extension of time under 37 C.F.R. § 1.136, please charge such fees to our Deposit Account No. 50-1066.

Respectfully submitted,

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